STATE OF NEW YORK

7082

2021-2022 Regular Sessions

IN SENATE

May 27, 2021

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to updating certain references with respect to the Troy Industrial Development Authority, eliminating an automatic corporate termination clause when all bonds have been repaid, allowing the Troy Industrial Development Authority to deposit and manage its own funds and accounts, adding certain retail restrictions and making certain technical corrections

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 1 of section 1951 of the public authorities law, as added by chapter 759 of the laws of 1967, is amended to read as follows:

1. The term "authority" shall mean the Troy Industrial Development Authority, the corporation created by section nineteen hundred [~~two~~] **fifty-two** of this title;

§ 2. Section 1952 of the public authorities law, as separately amended by chapters 195 and 357 of the laws of 1993, is amended to read as follows:

§ 1952. Troy industrial development authority. A board to be known as the "Troy industrial development authority" is hereby created. Such board shall be a body corporate and politic, constituting a public benefit corporation and its existence shall commence upon the appointment of the members as herein provided. Its members shall consist of a [~~chairman~~] **chair** and eight other members, all of whom shall be appointed by the [~~city manager~~] **mayor** of the city for a term of three years, and shall include two members of the common council of the city, one representative of the city school board, and one representative from each of the fields of business, industry and labor. Every appointment to the board shall be subject to confirmation by the common council of the

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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city. The [~~chairman~~] **chair** and each member shall continue to serve until the appointment and confirmation of his **or her** successor. Vacancies in such board occurring otherwise than by expiration of term shall be filled by the [~~city manager~~] **mayor** by appointment for the unexpired term subject to confirmation by the common council of the city. The [~~city manager~~] **mayor** may remove the [~~chairman~~] **chair** or any member of the board for inefficiency, neglect of duty or misconduct in office, after giving him **or her** a copy of the charges against him **or her** and an opportunity of being heard in person, or by counsel, in his **or her** defense upon not less than ten days' notice. Such removal must be approved by the city council of the city. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the city shall be deemed to have forfeited or shall forfeit his **or her** office or employment by reason of his **or her** acceptance of membership on the board created by this section, provided, however, that a member who holds such other public office or employment shall receive no additional compensation or allowance for services rendered pursuant to this title, but shall be entitled to reimbursement for his **or her** actual and necessary expenses incurred in the performance of such services. The power of the authority shall be vested in and exercised by a majority of the members of the board. Such a board may delegate to one or more of its members, or to its officers, agents and employees, such powers and duties as it may deem proper. Such board and its corporate existence shall continue [~~until July first, nineteen hundred ninety-eight and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged~~] **in accordance with section nineteen hundred sixty-seven of this title**. Upon its ceasing to exist, all rights and properties shall pass to and be vested in the city.

§ 3. The opening paragraph of section 1953 of the public authorities law, as amended by chapter 907 of the laws of 1972, is amended to read as follows:

The purposes of the authority shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehouse, [~~and~~] commercial **and** research facilities including industrial pollution control facilities, transportation facilities including but not limited to those relating to water, highway, rail and air, in one or more areas of the city, particularly but not exclusively at the site of what was formerly the Troy airport including an airstrip or airport located in the southern section of the city and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of said city and to improve their standard of living; provided, however, that the authority shall not undertake any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project applicant located within the state, provided, however, that neither restriction shall apply if the authority shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project

occupant in its respective industry. Except as otherwise provided for in this section, no financial assistance of the authority shall be provided in respect of any project where facilities or property that are primarily used in making retail sales to customers who personally visit such facilities constitute more than one-third of the total project cost. For the purposes of this article, "retail sales" shall mean: (i) sales by a registered vendor under article twenty-eight of the tax law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of section eleven hundred one of the tax law; or (ii) sales of a service to such customers. Except, however, that tourism destination projects shall not be prohibited by this paragraph. For the purpose of this paragraph, "tourism destination" shall mean a location or facility which is likely to attract a significant number of visitors from outside the economic development region as established by section two hundred thirty of the economic development law in which the project is located.

Notwithstanding the provisions of this section to the contrary, such financial assistance may, however, be provided to a project where facilities or property that are primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain such goods or services constitute more than one-third of the total project cost, where: (i) the predominant purpose of the project would be to make available goods or services which would not, but for the project, be reasonably accessible to the residents of the city of Troy because of a lack of reasonably accessible retail trade facilities offering such goods or services; or (ii) the project is located in a highly distressed area. With respect to projects authorized pursuant to this paragraph no project shall be approved unless the authority shall find after the public hearing required by section twenty-three hundred seven of this chapter that undertaking the project will serve the public purposes of this article by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in the state. Where the authority makes such a finding, prior to providing financial assistance to the project by the authority, the chief executive officer of the city of Troy shall confirm the proposed action of the authority. To carry out said purposes, the authority shall have power:

§ 4. Subdivisions 4 and 7 of section 1953 of the public authorities law, as added by chapter 759 of the laws of 1967, are amended to read as follows:

4. To acquire by purchase, grant, lease, gift, condemnation, or otherwise and to use, real property or rights or easements therein necessary for its corporate purposes, and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property in such manner as the authority shall determine. With respect to real property conveyed to it by the city, however, such power of disposition shall be limited as hereinafter provided in section nineteen hundred [~~five~~] fifty-five of this title;

7. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation and to pay the same out of funds of the authority, subject, however, to the provisions of the civil service law as hereinafter provided in section nineteen hundred [~~and four~~] fifty-four of this title;

§ 5. Subdivision 1 of section 1955 of the public authorities law, as added by chapter 759 of the laws of 1967, is amended to read as follows:

1. The city may, by duly adopted resolution of the city council or by instruments authorized by such resolution, convey, with or without consideration, to the authority real and personal property owned by the city for use by the authority as a project. In case of real property so conveyed, the title thereto shall remain in the city but the authority shall have the use thereof for so long as its corporate existence shall continue and said real property shall be under its jurisdiction, control and supervision within the ambit of section nineteen hundred [~~thirteen~~] **sixty-three** of this title and exempt from all taxes and assessments except such payments in lieu thereof as may be contained in such resolution or instrument of conveyance.

§ 6. Section 1956 of the public authorities law, as amended by chapter 907 of the laws of 1972, is amended to read as follows:

§ 1956. Construction and purchase contracts. The provisions of law relating to the requirement of public bidding with respect to the construction of public facilities or projects shall not be applicable to the acquisition, construction, reconstruction, improvement, maintenance, equipping and furnishing of projects authorized by this [~~act~~] **title**.

§ 7. Section 1957 of the public authorities law, as amended by chapter 907 of the laws of 1972, is amended to read as follows:

§ 1957. Moneys of the authority. All moneys of the authority, from whatever source derived, shall be paid to the [~~treasurer~~] **authority's appointed chief financial officer** of the city as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the [~~treasurer~~] **authority's appointed chief financial officer** on requisition of the [~~chairman~~] **chair** of the authority or of such person as the authority may authorize to make such requisitions [~~after audit by and upon the warrant of the comptroller~~]. All deposits of such moneys shall, if required by the [~~treasurer or the~~] authority, be secured by obligations of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The [~~treasurer~~] **comptroller of the city** and his **or her** legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits. The accounts of the authority shall be subject to the supervision of the state comptroller and he **or she** or his **or her** legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, sinking funds, investments and any other matter relating to its financial standing and fiscal affairs. The authority shall render a complete annual account of its proceedings

to the city council at its first meeting in [~~February~~] April of each and every year.

§ 8. Paragraph (i) of subdivision 3 of section 1958 of the public authorities law, as added by chapter 759 of the laws of 1967, is amended to read as follows:

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all the rights, powers and duties of the trustees appointed by the bond-holders pursuant to section nineteen hundred [~~and fifteen hereof~~] sixty-five of this title, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties and powers of trustee; and

§ 9. Section 1967 of the public authorities law, as added by chapter 759 of the laws of 1967, is amended to read as follows:

§ 1967. Termination of the authority. Whenever all of the bonds issued by the authority shall have been redeemed or cancelled, and all straight-lease transactions have been terminated, the authority shall cease to exist and all rights, titles, and interest and all obligations and liabilities thereof vested in or possessed by the authority shall thereupon vest in and be possessed by the city of Troy.

§ 10. This act shall take effect immediately.